

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

FLOYD JOHNSON-BEY,)	
)	
Plaintiff,)	
)	
v.)	No. 4:10-CV-2445-CEJ
)	
TROY STEELE, et al.,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

This matter is before the Court upon review of the motion of plaintiff Floyd Johnson-Bey for leave to proceed in forma pauperis. In addition, plaintiff has filed a motion for reconsideration of an order entered on February 22, 2011 [Doc. # 34].

28 U.S.C. § 1915(b)(1)

Pursuant to 28 U.S.C. § 1915(b)(1), a prisoner bringing a civil action in forma pauperis is required to pay the full amount of the filing fee. If the prisoner has insufficient funds in his prison account to pay the entire fee, the Court must assess and, when funds exist, collect an initial partial filing fee of 20 percent of the greater of (1) the average monthly deposits in the prisoner's account; or (2) the average monthly balance in the prisoner's account for the prior six-month period. See 28 U.S.C. § 1915(b)(1). After payment of the initial partial filing fee, the prisoner is required to make monthly payments of 20 percent of the preceding month's income

credited to the prisoner's account. See 28 U.S.C. § 1915(b)(2). The agency having custody of the prisoner will forward these monthly payments to the Clerk of Court each time the amount in the prisoner's account exceeds \$10, until the filing fee is fully paid. Id.

Plaintiff has submitted an affidavit and a certified copy of his prison account statement for the six-month period immediately preceding the submission of his complaint. See 28 U.S.C. § 1915(a)(1),(2). A review of plaintiff's account statement indicates an average monthly deposit of \$81.83, and an average monthly account balance of \$23.68. Plaintiff has insufficient funds to pay the entire filing fee. Accordingly, the Court will assess an initial partial filing fee of \$16.37 which is 20 percent of plaintiff's average monthly deposit.

In the February 22, 2011 order, the Court explained that it was unable to rule on plaintiff's motion for leave to proceed in forma pauperis at that time, because plaintiff had failed to file a certified copy of his inmate trust fund account statement.¹ The Court did not deny the motion, but rather instructed plaintiff to either pay the full filing fee or submit his inmate account statement. Plaintiff has now complied with the order and his motion for reconsideration will therefore be denied.

¹Because plaintiff had neither paid the filing fee nor obtained leave to proceed in forma pauperis, the Court denied his motions for a preliminary injunction, for appointment of counsel and for summary judgment.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion for leave to proceed in forma pauperis [Doc. #2] is **GRANTED**.

IT IS FURTHER ORDERED that plaintiff shall pay an initial partial filing fee of \$16.37 within thirty (30) days from the date of this order. Plaintiff is instructed to make his remittance payable to "Clerk, United States District Court," and to include upon it: (1) his name; (2) his prison registration number; (3) the case number; and (4) that the remittance is for an original proceeding.

IT IS FURTHER ORDERED that if plaintiff fails to pay the initial partial filing fee within thirty (30) days, without first showing good cause, the Court will dismiss this action without prejudice.

IT IS FURTHER ORDERED that plaintiff's motion for reconsideration [Doc. #37] is **DENIED**.

Dated this 22nd day of March, 2011.


UNITED STATES DISTRICT JUDGE